

§ 316.11

8 CFR Ch. I (1–1–13 Edition)

(3) *Record expungement*—(i) *Drug offenses*. Where an applicant has had his or her record expunged relating to one of the narcotics offenses under section 212(a)(2)(A)(i)(II) and section 241(a)(2)(B) of the Act, that applicant shall be considered as having been “convicted” within the meaning of § 316.10(b)(2)(ii), or, if confined, as having been confined as a result of “conviction” for purposes of § 316.10(b)(2)(iv).

(ii) *Moral turpitude*. An applicant who has committed or admits the commission of two or more crimes involving moral turpitude during the statutory period is precluded from establishing good moral character, even though the conviction record of one such offense has been expunged.

[56 FR 50484, Oct. 7, 1991, as amended at 58 FR 49913, Sept. 24, 1993]

§ 316.11 Attachment to the Constitution; favorable disposition towards the good order and happiness.

(a) *General*. An applicant for naturalization must establish that during the statutorily prescribed period, he or she has been and continues to be attached to the principles of the Constitution of the United States and favorably disposed toward the good order and happiness of the United States. Attachment implies a depth of conviction which would lead to active support of the Constitution. Attachment and favorable disposition relate to mental attitude, and contemplate the exclusion from citizenship of applicants who are hostile to the basic form of government of the United States, or who disbelieve in the principles of the Constitution.

(b) *Advocacy of peaceful change*. At a minimum, the applicant shall satisfy the general standard of paragraph (a) of this section by demonstrating an acceptance of the democratic, representational process established by the Constitution, a willingness to obey the laws which may result from that process, and an understanding of the means for change which are prescribed by the Constitution. The right to work for political change shall be consistent with the standards in paragraph (a) of this section only if the changes advocated would not abrogate the current Gov-

ernment and establish an entirely different form of government.

(c) *Membership in the Communist Party or any other totalitarian organization*. An applicant who is or has been a member of or affiliated with the Communist Party or any other totalitarian organization shall be ineligible for naturalization, unless the applicant's membership meets the exceptions in sections 313 and 335 of the Act and § 313.4 of this chapter.

§ 316.12 Applicant's legal incompetency during statutory period.

(a) *General*. An applicant who is legally competent at the time of the examination on the naturalization application and of the administration of the oath of allegiance may be admitted to citizenship, provided that the applicant fully understands the purpose and responsibilities of the naturalization procedures.

(b) *Legal incompetence*. Naturalization is not precluded if, during part of the statutory period, the applicant was legally incompetent or confined to a mental institution.

(1) There is a presumption that the applicant's good moral character, attachment, and favorable disposition which existed prior to the period of legal incompetency continued through that period. The Service may, however, consider an applicant's actions during a period of legal incompetence, as evidence tending to rebut this presumption.

(2) If the applicant has been declared legally incompetent, the applicant has the burden of establishing that legal competency has been restored. The applicant shall submit legal and medical evidence to determine and establish the claim of legal competency.

(3) The applicant shall bear the burden of establishing that any crimes committed, regardless of whether the applicant was convicted, occurred while the applicant was declared legally incompetent.

§ 316.13 [Reserved]

§ 316.14 Adjudication—examination, grant, denial.

(a) *Examination*. The examination on an application for naturalization shall